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Counsel to Chevron Master Pension Trust  
and Chevron UK Pension Plan

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

		No. 19-30088 (DM)
<b>IN RE:</b>	)	
	)	CHAPTER 11
<b>PG&amp;E, CORPORATION</b>	)	
	)	(Lead Case)
<b>-and-</b>	)	
	)	(Jointly Administered)
<b>PACIFIC GAS AND ELECTRIC</b>	)	
<b>COMPANY,</b>	)	
	)	
<b>Debtors.</b>	)	

		<b>CHEVRON'S OBJECTION TO THE REORGANIZED DEBTORS' MOTION TO APPROVE SECURITIES ADR AND RELATED PROCEDURES FOR RESOLVING SUBORDINATED SECURITIES CLAIMS</b>
<u>      </u> Affects PG&E Corporation	)	
<u>      </u> Affects Pacific Gas and Electric Company	)	
<u>  X  </u> Affects both Debtors	)	

*\*All papers shall be filed in the Lead  
Case, No. 19-30088 (DM).*

Date: October 28, 2020  
Time: 10:00 a.m. (PT)  
Before: (Telephonic Appearances)  
United States Bankruptcy  
Court Courtroom 17, 16<sup>th</sup> Floor  
San Francisco, California 94102

1 Chevron Master Pension Trust (“CMPT”) and Chevron UK Pension Plan (“CUPP” and  
2 together with CMPT, “Chevron”), with claims totaling approximately \$18 million dollars, through  
3 undersigned counsel, submit this objection (the “Objection”) to the *Reorganized Debtors’ Motion*  
4 *to Approve Securities ADR and Related Procedures for Resolving Subordinated Securities Claim*  
5 (the “ADR Motion”) [Docket 8964], and respectfully represents as follows:

### 6 **BACKGROUND**

7 On January 29, 2019 (the “Petition Date”), PG&E Corporation (“HoldCo”) and Pacific  
8 Gas and Electric Company (“Utility”, and together with HoldCo, the “Debtors”) commenced  
9 voluntary cases for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy  
10 Court for the Northern District of California.

11 Both CUPP and CMPT are prepetition holders of the Debtors’ publicly traded equity  
12 securities or debt securities. On April 16, 2020, CUPP and CMPT filed Rescission Proofs of Claim  
13 on account of those holdings at Claim Nos. 101,365 and 101,416 respectively. On May 14, 2020,  
14 CUPP and CMPT filed amended Rescission Proofs of Claim at Claim Nos. 104,534 and 104,490  
15 respectively (as amended, the “Chevron Rescission Claims”).

16 On December 9, 2019, the Public Employees Retirement Association of New Mexico  
17 (“PERA”) filed its *Motion to Apply Bank. Rule 7023 to Class Proof of Claim* (the “Initial 7023  
18 Motion”) [Docket No. 5042]. PERA is the court-appointed lead plaintiff in the securities class  
19 action captioned as *In re PG&E Corporation Securities Litigation*, Case No. 18-03509 (the  
20 “Securities Litigation”) pending in the U.S. District Court for the Northern District of California  
21 on behalf of itself and the proposed class it represents in the Securities Litigation (the “Class”).  
22 On February 24, 2020, this Court denied the Initial 7023 Motion, but extended the bar date for  
23 individual members of the Class.

24 On September 1, 2020, the Debtors filed the ADR Motion proposing a three-step process.  
25 In the first step, the Debtors would seek certain information from securities claim holders to  
26 evaluate those claims and either mediate or object to them. The information would be submitted  
27 either via mail or through a specially designed online portal. The deadline to submit the  
28 information requested by the Debtors would be 28 days after receipt of the Trading Information

1 Request Forms. If the Debtors did not get a response, they would then send a follow up reminder  
2 which allows for another 14 days. If no response came after the additional 14 days, the Debtors  
3 would be allowed to file a formal objection seeking disallowance. In relevant part, the Trading  
4 Information Request Forms seek “complete trading history, including, among other things, each  
5 purchase and sale separately along with the trade date of each separate transaction, identification  
6 of the type of transaction, e.g., a purchase or sale, the number of securities involved in the  
7 transaction, and the price of the transaction on a per security basis.”

8 In the second step, three separate mechanisms for potential settlement would be employed:  
9 (1) offer procedures where the parties exchange settlement offers and counteroffers confidentially  
10 and without mediation; (2) abbreviated mediation processes that are mandatory and non-binding  
11 because formal mediation may not be appropriate for all claims, especially those with smaller  
12 asserted or potential claim amounts; and (3) standard mediation processes that are mandatory and  
13 non-binding, principally for claimants that have asserted or have larger potential claims.

14 In the third step, an omnibus objection procedure would be undertaken allowing Debtors  
15 to lodge objections, on an omnibus basis, to claims that are not otherwise settled and/or are facially  
16 or procedurally defective.

17 The hearing on the ADR Motion was set for September 22, 2020 with a deadline to file an  
18 opposition to the ADR Motion of September 15, 2020 at 4:00 pm (Pacific Time). On September  
19 12, 2020, the Debtors filed a stipulation continuing the hearing on the ADR Motion to October 28,  
20 2020 and extending the deadline to file responses or objections to October 5, 2020, at 4:00 pm  
21 (Pacific Time) (the “Stipulation”) [Docket No. 9030]. On September 14, 2020, the Court entered  
22 its order approving the Stipulation [Docket No. 9036].

23 On September 28, 2020, PERA filed a new 7023 Motion (the “New 7023 Motion”) [Docket  
24 No. 9152] seeking distinct relief from the Initial 7023 Motion to provide an alternative to the ADR  
25 Motion and a more efficient and fair means for handling both the rescission claims against the  
26 Debtors’ estate.

27 On October 5, 2020, PERA filed its Objection to the ADR Motion (the “PERA ADR  
28 Objection”) [Docket No. 9189]. The PERA ADR Objection rightfully addresses many of the same

1 issues discussed below, as well as others. Chevron joins in the PERA ADR Objection to the extent  
2 the arguments therein are consistent with the arguments in this Objection.

### 3 OBJECTION

4 The Debtors have proposed, through the ADR Motion, a process to resolve approximately  
5 7,000 securities claims that would not only be exceedingly expensive to implement, but also  
6 highlight the disparity in resources between the Debtors on one side and individual security holders  
7 on the other. The Debtors conceived and proposed the ADR Motion without consulting the  
8 claimants and it appears to be a unilateral effort to achieve the Debtors' goal, that is, to achieve  
9 the most abstemious settlement possible of the rescission claims.

10 By the ADR Motion, Debtors seek to use their unitary, well-represented position to divide  
11 and conquer claimants who lack the opportunity and financial resources to present a fulsome  
12 challenge. The Debtors deliberately proposed a complex multi-step process that contains several  
13 time-consuming, complicated, and (as a result) expensive procedures targeting each individual  
14 claimant. These complex processes would force small claimants to weigh the expense of pursuing  
15 their claim (and the expected cost of defending Debtors' objections) against the value of the claim  
16 itself. Most will abandon the field of battle in the face of this pyrrhic result. The Debtors, on the  
17 other hand, have granted themselves functionally unlimited resources to prosecute the objections  
18 and benefit from the inequality built into the Debtors' proposed process.

19 The Debtors have also seeded their proposed ADR procedures with a series of potential  
20 forfeitures and traps for the entities less sophisticated in Chapter 11 proceedings. First, the  
21 burdensome, one-sided fact gathering process provides the Debtors with information about all  
22 claims while individual claimants receive no corresponding communal benefit to obtain or share  
23 information against the Debtors. To remedy this, the court should provide all claimants with the  
24 ability and forum to collaborate on their claims.

25 Second, the proposed mediation process creates unnecessary complications and inequities:

- 26 a. the Debtors (and ONLY the Debtors) pick the parties that will serve as the  
27 mediators (the "Mediators") without consultation with the claimants—like only  
28 one sports team choosing all the referees for all of their the games;

- 1           b. the Debtors (and ONLY the Debtors) are allowed to brief the Mediators on issues  
2           relating to the specific claims being disputed before the Mediators, but the  
3           claimants holding those claims are allowed no such right; and  
4           c. in an “impasse” between the Debtors and a claimant (determined by the Debtors  
5           and the mediators they select), the Mediators can have *ex parte* conversations with  
6           Court, but not the ordinary claimants.

7           Third, ordinary claimants will not likely have the resources or financial wherewithal to hire  
8           an expert with resources even approaching parity with the Debtors and their experts. Again, the  
9           deck looks stacked to an ordinary claimant who would not know how to find an expert, much less  
10          pay for one. The Debtors seek to overwhelm ordinary claimants with a platoon of well-heeled  
11          experts (by design).

12          Fourth, ADR Motion virtually guarantees asymmetrical outcomes. The use of omnibus  
13          objections to the common issues would be met with unique objections on a claimant-by-claimant  
14          basis. Adjudication of the unique objections is likely to produce gross inconsistencies. Conversely,  
15          the application of Rule 7023 would allow the efficient implementation of uniform defenses  
16          collectively and limit the litigation thereof to one set of briefs. Yet, under the Debtors’ proposed  
17          procedures each claimant is left alone to fight an asymmetrical war.

18          Debtors intend to present extensive facts underpinning the rescission claims with complex  
19          legal issues to which most claimants cannot economically or practically respond. Equity forbids  
20          this result. The procedures would allow the Debtors to isolate each individual claimant and force  
21          them, very likely without the level of technical and legal expertise possessed by the Debtors, to  
22          carry a heavy burden of discovery and expenses. The Court should not put the burden on claimants  
23          to resist each of Debtors’ objections without help, without coordination, underrepresented, and  
24          alone.

25          The New 7023 Motion proposes a superior process whereby the claimants can effectively  
26          pool their resources and meet the Debtors on a fair playing field in order to reach a fair and  
27          equitable settlement of the rescission claims. The complexity necessitates the use of an expert  
28          whose cost the claimants will be unable to justify individually. Even if some claimants employ

1 experts, small differences between claimants' experts could be exploited. To avoid such an  
2 inequitable pitfall, a collectively chosen and compensated expert should be utilized.

3 Chevron acknowledges benefits of the New 7023 Motion because it is equitable,  
4 reasonable, minimizes the burden on the parties and this Court, and follows a logical, fair process:

- 5 a. negotiation of damages claims on a fair, class-wide basis before a single nationally  
6 recognized mediator with securities litigation experience;
- 7 b. a mediator chosen by this Court (not Debtors) and paid by both sides;
- 8 c. an appropriate damage formula tailored to specific allegations, dictating damages  
9 on an objective basis by accounting for the purchase and sale date of the securities;
- 10 d. uniform measurement of claims as opposed to the *ad hoc* ADR process where the  
11 outcome is a function of relative bargaining power; and
- 12 e. the opportunity to agree to negotiate and then agree on metrics for an appropriate  
13 damage formula.

14 This process will prove easier to administer because the nationally recognized expert  
15 mediator and parties will be acting together to determine damages objectively, formulaically, and  
16 collectively. The Court retains the opportunity to construe and apply the Plan's terms on a fair,  
17 class-wide basis. The process has proven to be effective in many other securities class action  
18 resolutions.

19 Lastly, any requirement of in person attendance, at mediations or otherwise, would be  
20 particularly burdensome for CUPP, which is headquartered in the U.K.

1 CONCLUSION

2 WHEREFORE, Chevron respectfully requests that, unless this Objection is resolved or  
3 withdrawn, the ADR Motion be denied. Chevron continues to reserve all rights and requests that  
4 the Court order such other relief as is just and necessary.

5 Dated: October 5, 2020

PILLSBURY WINTHROP SHAW  
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8 By: /s/ Philip S. Warden  
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11 Trust and Chevron UK Pension Plan  
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